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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	Magistrate Docket No. '08 MJ 1474
v.	COMPLAINT FOR VIOLATION OF:
Agustin Jaime MESA-Montoya, Defendant	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **May 10, 2008** within the Southern District of California, defendant, **Agustin Jaime MESA-Montoya,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James E. Bailey
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **12th** DAY OF **MAY 2008.**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Agustin Jaime MESA-Montoya

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On May 10, 2008, Border Patrol Agent R. Harbourt of the Boulevard Station was patrolling in the area of Jacumba, California. Agent Harbourt was operating a marked Border Patrol vehicle and he was in full uniform. This area is approximately 30 miles east of the Tecate, California Port of Entry and directly north of the United States/Mexico International Border. At approximately 5:00 a.m., Agent Harbourt was advised by San Diego Sector Dispatch that there was a sensor activation in the area of "Carries Mountain." "Carries Mountain" has seen many vehicle drive-troughs in the recent past. The only egress from the drive-through areas of "Carries Mountain" is an area known to local agents as the map-stop just south of Old Highway 80.

Border Patrol Agent Goodwin, using an infrared night-vision scope, observed the treacherous one-lane access/egress truck-trail leading down "Carries Mountain" and soon observed a pickup truck traveling northbound. Agent Harbourt responded to the map stop and observed a red Ford F-250 driving without lights on heading eastbound on Old Highway 80 and immediately entering onto I-8.

Agent Harbourt approached the vehicle in his marked Border Patrol vehicle and observed what appeared to be people concealed under a blanket in the bed of the Ford. Agent Harbourt also noticed that the Ford was covered in dirt and had numerous scratches, which is consistent with vehicles that cross the border in this area as vehicles must drive through thick brush and rough terrain to reach the border area. Agent Harbourt contacted Border Patrol Dispatch and requested registration and stolen vehicle checks on the Ford F-250. Immediately after Agent Harbourt contacted Dispatch, the driver of the Ford pulled over to the side of I-8.

Agent Harbourt pulled in behind the Ford and began to exit his vehicle to make contact with the driver. The driver then turned his lights on and immediately put the truck in reverse and accelerated heavily towards Agent Harbourt. Agent Harbourt placed his vehicle in reverse and activated his emergency lights in an attempt to avoid being hit by the Ford. Agent Harbourt was forced to continue in reverse going wrong way in the eastbound lanes for approximately one quarter mile. The Ford came to a stop so Agent Harbourt also came to a stop. The driver then again accelerated heavily in reverse attempting to ram Agent Harbourt's vehicle. Agent Harbourt continued to go wrong way to avoid being struck by the Ford. The Ford came to a stop again, and then fled eastbound on I-8 towards El Centro. The El Centro Border Patrol Station was advised of the situation and their assistance was requested.

Supervisory Border Patrol Agent Nix of the El Centro station soon observed the Ford as it traveled eastbound on I-8 near mile marker 18. Soon after, the Ford crashed into the median nearly rolling over. The Ford came to a complete stop and all occupants of the Ford fled from the vehicle. Upon arrival on scene, Agent Harbourt found foot sign leading north from I-8. A search of the immediate area revealed a total of eighteen individuals north of the vehicle, seventeen of which were hiding a short distance from the crashed Ford and one suspect, later identified as the defendant **Agustin Jaime MESA-Montoya** was found and detained as he was running north from the group. After an extensive search of the area, which consists of flat, open desert, Border Patrol Agents determined that all occupants of the crashed vehicle had been taken into custody. The eighteen subjects were located and detained by Supervisory Border Patrol Agent Nix. Agent Harbourt questioned all eighteen subjects as to their citizenship and immigration status. All eighteen, including the defendant, freely admitted to being citizens and nationals of Mexico and none of them were able to present any immigration documents that would allow them to enter, be or remain in the United States legally. At approximately 5:30 a.m., all eighteen subjects, including the defendant, were arrested and transported to the Boulevard Border Patrol Station.

CONTINUATION OF COMPLAINT:
Agustin Jaime MESA-Montoya

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 14, 2006** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He further stated he was not in fact the driver of the vehicle that was used in today's incident.

Executed on May 11, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **2** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **May 10, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Cathy A. Bencivengo
United States Magistrate Judge

5/11/08 @ 9:20 am
Date/Time